

ABDC Category: “Exact Duplicate, Near Duplicate, and Substantially Similar Documents”

23 documents: Duplicates (2); Non-Duplicates (21)

The parties agree that all 23 below charted documents hit CT1 search terms and are from CT1 deponent custodial files

Reply Doc. #	Bates	ABDC’s Supplemental Response	Plaintiffs’ Response
4	ABDCMDL00569293	<p>“A related, more substantive, and more inclusive version of this email chain omitting the October 20, 2017 11:24 AM email was produced in Track One at ABDCMDL00273321 on July 27, 2018, as discussed in ABDC’s Sur-Reply at 5 n.4.”</p> <p><i>See</i>, ABDC’s Supp. Resp. at p. 21.</p>	<p>Non-duplicate – inexcusably removed from CT1 production.</p> <p>ABDC’s failure to produce this document violated CMO No. 3, ¶¶ 5(a-d) “Deduplication.”</p> <p>ABDC’s reason for not producing this document prior to the close of CT1 is a violation of the ESI protocol. As set forth in CMO No. 3, “so-called ‘near duplicates’ will not be included in this definition.”</p>
21	ABDCMDL00568946	<p>“This is a draft performance evaluation document including drafts of Chris Zimmerman’s evaluation of both himself and his direct reports. A substantially similar document was produced in Track One. The content contained in this document related to Mr. Zimmerman was produced in Track One on February 6, 2019 as part of ABDC’s production of Chris Zimmerman’s personnel file in advance of his second deposition at ABDCMDL00383896. This document also contains a draft outline of what Mr. Zimmerman would say in Steve Mays’ performance evaluation of the same year. Mr. Mays’ personnel file, including Mr. Zimmerman’s review of him was produced in Track One at ABDCMDL00383951 on February 6, 2019 in advance of his second deposition.”</p> <p><i>See</i>, ABDC’s Supp. Resp. at p. 36.</p>	<p>Non-duplicate, this is a <u>different</u> document – inexcusably removed from CT1 production.</p> <p>ABDC’s failure to produce this document violates CMO No. 3, generally.</p> <p>The earlier produced document is a different email with a different subject line from ABDC’s “related documents.”</p>
[23] 24	ABDCMDL00568700 ABDCMDL00568701	<p>“Document 23 was erroneously not produced in Track One. A near duplicate of Document 24, the attachment to Document 23, containing identical substantive information and minor formatting changes was produced in Track One at ABDCMDL00268904 on July 27, 2018.”</p> <p><i>See</i>, ABDC’s Supp. Resp. at p. 38.</p>	<p>Non-duplicate – inexcusably removed from CT1 production.</p> <p>ABDC’s failure to produce this document violated CMO 3 ¶ 6(k) “Parent-Child Relationships” (among others).</p> <p>ABDC’s reason for not producing this document prior to the close of CT1 highlights their violation of the ESI protocol, given that ABDC did not retain “the association between an attachment and its parent document.”</p>
27 28	ABDCMDL00542407 ABDCMDL00542409	<p>“Duplicates of this document and its attachment were produced in Track One at ABDCMDL00280794 and ABDCMDL00280798, and at ABDCMDL00280954 and ABDCMDL00280958, all on August 17, 2018. Accordingly, an identical document was produced in Track One, albeit with a different bates stamp.”</p> <p><i>See</i>, ABDC’s Supp. Resp. at p. 41.</p>	<p>Duplicate.</p> <p>Plaintiffs’ agree these documents are duplicates.</p>

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29	ABDCMDL00542088	<p>"A related, more substantive, and more inclusive version of this document was produced in Track One at ABDCMDL00251751 and ABDCMDL00252345 on July 27, 2018."</p> <p><i>See</i>, ABDC's Supp. Resp. at p. 42.</p>	<p>Non-duplicate, this is a <u>different</u> document – inexcusably removed from CT1 production.</p> <p>ABDC's failure to produce this document violates CMO No. 3, generally.</p> <p>The earlier produced document is a different email with a different subject line from ABDC's "related documents."</p>
31	ABDCMDL00544779	<p>"A related, more substantive, and more inclusive version of this document was produced in Track One at ABDCMDL00251751 and ABDCMDL00252345 on July 27, 2018."</p> <p><i>See</i>, ABDC's Supp. Resp. at p. 44.</p>	<p>Non-duplicate, this is a <u>different</u> document – inexcusably removed from CT1 production.</p> <p>ABDC's failure to produce this document violates CMO No. 3, generally.</p> <p>The earlier produced document is a different email with a different subject line from ABDC's "related documents."</p>
36	ABDCMDL00551575 ABDCMDL00551576 ABDCMDL00551578	<p>"This document includes a non-substantive cover email with no content that attaches two documents (ABDCMDL00551576, ABDCMDL00551578) related to threshold review. A duplicate of the first attachment was produced in Track One at ABDCMDL00000099 on June 1, 2018, and was introduced by Plaintiffs as an exhibit to the deposition of Chris Zimmerman on August 3, 2018. A duplicate of the second attachment was produced in Track One at ABDCMDL00322924 on October 25, 2018. Accordingly, an identical document was produced in Track One, albeit with a different bates stamp."</p> <p><i>See</i>, ABDC's Supp. Resp. at p. 49.</p>	<p>Non-duplicate, family <u>not</u> produced – inexcusably removed from CT1 production.</p> <p>ABDC's failure to produce this document violated CMO 3 ¶¶ 5(c) "Duplicate Custodian" and 6(k) "Parent-Child Relationships" (among others).</p> <p>ABDC's reason for not producing this document prior to the close of CT1 highlights their violation of the ESI protocol, given that ABDC did not retain "the association between an attachment and its parent document."</p>
41 42 43	ABDCMDL05778656 ABDCMDL05778657 ABDCMDL05778662	<p>"A more inclusive version of this email chain was produced in Track One at ABDCMDL00264738 on July 27, 2018. That more inclusive version included the same two attachments, produced at ABDCMDL00264740 and ABDCMDL00264745, except that two typographical errors in the attachments were corrected using "track changes," as reflected in ABDCMDL00264738."</p> <p><i>See</i>, ABDC's Supp. Resp. at p. 54.</p>	<p>Non-duplicate – inexcusably removed from CT1 production.</p> <p>ABDC's failure to produce this document violated CMO No. 3, ¶ 5(a) "Deduplication."</p> <p>ABDC's reason for not producing this document prior to the close of CT1 is a violation of the ESI protocol. As set forth in CMO No. 3, "so-called 'near duplicates' will not be included in this definition."</p>

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52	ABDCMDL05791245	<p>"A duplicate of this document was produced in Track One at ABDCMDL00398316 on March 26, 2019. Accordingly, this document was produced in Track One, albeit with a different bates stamp. Moreover, this document was included in ABDC's Track One trial exhibit list as Exhibit AM-2033."</p> <p><i>See</i>, ABDC's Supp. Resp. at p. 63.</p>	<p>Non-duplicate – inexcusably removed from CT1 production.</p> <p>ABDC's failure to produce this document violated CMO 3 ¶ 5(c) "Duplicate Custodian." Deponent Chris Zimmerman is the custodian of Doc. #52. The custodian of ABDC's earlier produced version is "AmerisourceBergen."</p>
65	ABDCMDL06433723 ABDCMDL06433724	<p>"A near duplicate of this document was produced in Track One at ABDCMDL00169491 and ABDCMDL00169492 on July 20, 2018. The document identified by Plaintiffs is a cover e-mail attaching a draft letter to an individual at Kaiser Permanente. The near duplicate produced by ABDC in Track One is an email attaching the final version of the letter, with the only change being to correct a typo in the recipient's first name."</p> <p><i>See</i>, ABDC's Supp. Resp. at p. 76.</p>	<p>Non-duplicate – inexcusably removed from CT1 production.</p> <p>ABDC's failure to produce this document violated CMO No. 3, ¶¶ 5(a) "Deduplication."</p> <p>ABDC's reason for not producing this document prior to the close of CT1 is a violation of the ESI protocol. As set forth in CMO No. 3, "so-called 'near duplicates' will not be included in this definition."</p>
66 67 68 69	ABDCMDL06965500 ABDCMDL06965501 ABDCMDL06965502 ABDCMDL06965505	<p>"This group of documents consist of (a) an e-mail from Sharon Hartman with an attached spreadsheet (B-68 and B-69), and (b) a calendar invite from Sharon Hartman, attaching both her original e-mail and a separate copy of the same spreadsheet (B-66 and B-67). Duplicates of this same collection of documents were produced in Track One at ABDCMDL00366306 - ABDCMDL00366311 on December 21, 2018. The Sharon Hartman e-mail (ABDCMDL00366307) and spreadsheets (ABDCMDL00366310 and ABDCMDL00366311) are exact duplicates to documents B-67, B-68 and B-69. The document produced at ABDCMDL00366306 is a near duplicate of B-66. The original calendar invite from Ms. Hartman was produced at ABDCMDL00366306. Document B-66 appears to be a system-generated version of the invite – generated 6 seconds after the original – on which Ms. Hartman was replaced as the sender by "UNKNOWN," and was instead included as a recipient."</p> <p><i>See</i>, ABDC's Supp. Resp. at p. 77.</p>	<p>Non-duplicate, family <u>not</u> produced – inexcusably removed from CT1 production.</p> <p>ABDC's failure to produce this document violated CMO 3 ¶¶ 5(c) "Duplicate Custodian" and 6(k) "Parent-Child Relationships" (among others).</p> <p>ABDC's reason for not producing this document prior to the close of CT1 highlights their violation of the ESI protocol, given that ABDC did not retain "the association between an attachment and its parent document."</p>

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73	ABDCMDL06159883	<p>"A more inclusive version of the e-mail string reflected in this document was produced in Track One at ABDCMDL00378483 on January 15, 2019."</p> <p><i>See</i>, ABDC's Supp. Resp. at p. 81.</p>	<p>Non-duplicate – inexcusably removed from CT1 production.</p> <p>ABDC's failure to produce this document violated CMO No. 3, ¶ 5(a) "Deduplication" (among others).</p> <p>ABDC's reason for not producing this document prior to the close of CT1 is a violation of the ESI protocol. As set forth in CMO No. 3, "so-called 'near duplicates' will not be included in this definition."</p>
75	ABDCMDL00569249	<p>"A substantially similar copy of this e-mail chain, containing a revised draft of the top e-mail (and sent the same day as the document cited by Plaintiffs) was produced by ABDC in Track One at ABDCMDL00273571 on July 27, 2018."</p> <p><i>See</i>, ABDC's Supp. Resp. at p. 83.</p>	<p>Non-duplicate – inexcusably removed from CT1 production.</p> <p>ABDC's failure to produce this document violated CMO No. 3, ¶ 5(a) "Deduplication" (among others).</p> <p>ABDC's reason for not producing this document prior to the close of CT1 is a violation of the ESI protocol. As set forth in CMO No. 3, "so-called 'near duplicates' will not be included in this definition."</p>
82 83	ABDCMDL00569592 ABDCMDL00569593	<p>"Document ABDCMDL00569592 is a non-substantive cover e-mail attaching document ABDCMDL00569593. A duplicate of ABDCMDL00569593 was produced by ABDC in Track One at ABDCMDL00306689 on September 28, 2018. Accordingly, this document was produced in Track One, albeit with a different bates stamp."</p> <p><i>See</i>, ABDC's Supp. Resp. at p. 86.</p>	<p>Non-duplicate, family <u>not</u> produced – inexcusably removed from CT1 production.</p> <p>ABDC's failure to produce this document violated CMO 3 ¶¶ 5(a) Duplicate Custodian" and 6(k) "Parent-Child Relationships" (among others).</p> <p>ABDC's reason for not producing this document prior to the close of CT1 highlights their violation of the ESI protocol, given that ABDC did not retain "the association between an attachment and its parent document."</p>
85	ABDCMDL00544025	<p>"A near-duplicate of this document, which contains all of the substantive content of the document at issue, was produced during Track One at ABDCMDL00317475 on October 24, 2018."</p> <p><i>See</i>, ABDC's Supp. Resp. at p. 88.</p>	<p>Non-duplicate, this is a <u>different</u> document – inexcusably removed from CT1 production.</p> <p>ABDC's failure to produce this document violates CMO No. 3, generally.</p> <p>The earlier produced document is a different email.</p>

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100	ABDCMDL00542090	<p>“A related, more substantive, and more inclusive version of this document was produced in Track One at ABDCMDL00251751 and ABDCMDL00252345 on July 27, 2018.”</p> <p><i>See</i>, ABDC’s Supp. Resp. at p. 101.</p>	<p>Non-duplicate, this is a <u>different</u> document – inexcusably removed from CT1 production.</p> <p>ABDC’s failure to produce this document violates CMO No. 3, generally.</p> <p>The earlier produced document is a different email with a different subject line from ABDC’s “related documents.”</p>